

117TH CONGRESS  
1ST SESSION

# S. 2898

To amend title III of the Social Security Act to provide for improvements to State unemployment systems and to strengthen program integrity, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2021

Mr. YOUNG introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title III of the Social Security Act to provide for improvements to State unemployment systems and to strengthen program integrity, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Unemployment Insur-  
5       ance Systems Modernization Act of 2021”.

6       **SEC. 2. IMPROVEMENTS TO STATE UNEMPLOYMENT SYS-**

7                   **TEMPS AND STRENGTHENING PROGRAM IN-**  
8                   **TEGRITY.**

9       (a) UNEMPLOYMENT COMPENSATION SYSTEMS.—

1                             (1) IN GENERAL.—Section 303(a) of the Social  
2                             Security Act (42 U.S.C. 503(a)) is amended—

3                                 (A) in the matter preceding paragraph (1),  
4                             by striking “provision for—” and inserting  
5                             “provision for each of the following:”;

6                                 (B) at the end of each of paragraphs (1)  
7                             through (10), by striking “; and” and inserting  
8                             a period;

9                                 (C) in paragraph (11)(B), by striking  
10                             “The immediate” and inserting “the imme-  
11                             diate”; and

12                                 (D) by adding at the end the following new  
13                             paragraph:

14                                 “(13) The State system shall, in addition to  
15                             meeting the requirements under section 1137, meet  
16                             the following requirements:

17                                 “(A) The system shall be capable of accu-  
18                             rately and expeditiously processing a surge of  
19                             claims, including those filed under temporary  
20                             Federal benefit programs that the State may be  
21                             expected to administer, that would represent a  
22                             twentyfold increase in claims from January  
23                             2020 levels, occurring over a one-month period.

24                                 “(B) The system shall be capable of—

1                     “(i) adjusting wage replacement levels  
2                     for each individual receiving unemployment  
3                     compensation, but not to exceed 100 per-  
4                     cent of wage replacement;

5                     “(ii) adjusting weekly earnings dis-  
6                     regards, including the ability to adjust  
7                     such disregards in relation to an individ-  
8                     ual’s earnings or weekly benefit amount;  
9                     and

10                    “(iii) providing for wage replacement  
11                     levels that vary based on the individual’s  
12                     duration of benefit receipt.

13                    “(C) The system shall have in place an  
14                     automated process for receiving and processing  
15                     claims for disaster unemployment assistance  
16                     under section 410(a) of the Robert T. Stafford  
17                     Disaster Relief and Emergency Assistance Act  
18                     (42 U.S.C. 5177(a)), with flexibility to adapt  
19                     rules regarding individuals eligible for assist-  
20                     ance and the amount payable.

21                    “(D) In the case of a State that makes  
22                     payments of short-time compensation under a  
23                     short-time compensation program (as defined in  
24                     section 3306(v) of the Internal Revenue Code of  
25                     1986), the system shall have in place an auto-

1                   mated process of receiving and processing  
2                   claims for short-time compensation.

3                   “(E) The system shall have in place an  
4                   automated process for receiving and processing  
5                   claims for—

6                         “(i) unemployment compensation for  
7                         Federal civilian employees under sub-  
8                         chapter I of chapter 85 of title 5, United  
9                         States Code;

10                      “(ii) unemployment compensation for  
11                         ex-servicemembers under subchapter II of  
12                         chapter 85 of title 5, United States Code;  
13                         and

14                      “(iii) trade readjustment allowances  
15                         under sections 231 through 233 of the  
16                         Trade Act of 1974 (19 U.S.C. 2291–  
17                         2293).

18                   “(F) The system shall have in place an  
19                   automated process capable of receiving and  
20                   processing claims under future temporary Fed-  
21                   eral benefit programs, such as those that  
22                         may—

23                         “(i) provide extended benefits for indi-  
24                         viduals exhausting State compensation  
25                         (such as under the Pandemic Emergency

1                   Unemployment Compensation program es-  
2                   tablished in section 2107 of the CARES  
3                   Act (15 U.S.C. 9025)); or

4                   “(ii) expand coverage to include indi-  
5                   viduals not eligible for State compensation  
6                   (such as under the Pandemic Unemploy-  
7                   ment Assistance program established in  
8                   section 2102 of the CARES Act (15  
9                   U.S.C. 9021)).”.

10                  (2) EFFECTIVE DATE.—The amendments made  
11                  by paragraph (1) shall apply to weeks of unemploy-  
12                  ment beginning on or after the earlier of—

13                  (A) the date the State changes its statutes,  
14                  regulations, or policies in order to comply with  
15                  such amendment; or

16                  (B) October 1, 2024.

17                  (b) ELECTRONIC TRANSMISSION OF UNEMPLOYMENT  
18                  COMPENSATION INFORMATION.—Section 303 of the So-  
19                  cial Security Act (42 U.S.C. 503) is amended by adding  
20                  at the end the following new subsection:

21                  “(n) ELECTRONIC TRANSMISSION OF UNEMPLOY-  
22                  MENT COMPENSATION INFORMATION.—

23                  “(1) IN GENERAL.—Not later than October 1,  
24                  2024, the State agency charged with administration  
25                  of the State law shall use a system developed (in

1 consultation with stakeholders) and designated by  
2 the Secretary of Labor for automated electronic  
3 transmission of requests for information relating to  
4 unemployment compensation and the provision of  
5 such information between such agency and employ-  
6 ers or their agents. Such system shall ensure that  
7 any information shared is secure and safeguarded  
8 from potential abuse or misuse.

9       “(2) USE OF APPROPRIATED FUNDS.—The Sec-  
10 retary of Labor may use funds appropriated for  
11 grants to States under this title to make payments  
12 on behalf of States as the Secretary determines is  
13 appropriate for the use of the system described in  
14 paragraph (1).

15       “(3) EMPLOYER PARTICIPATION.—The Sec-  
16 retary of Labor shall work with the State agency  
17 charged with administration of the State law to in-  
18 crease the number of employers using this system  
19 and to resolve any technical challenges with the sys-  
20 tem.

21       “(4) REPORTS ON USE OF ELECTRONIC SYS-  
22 TEM.—After the end of each fiscal year, on a date  
23 determined by the Secretary, each State shall report  
24 to the Secretary information on—

1               “(A) the proportion of employers using the  
2               designated system described in paragraph (1);

3               “(B) the reasons employers are not using  
4               such system; and

5               “(C) the efforts the State is undertaking  
6               to increase employer’s use of such system.

7               “(5) ENFORCEMENT.—Whenever the Secretary  
8               of Labor, after reasonable notice and opportunity for  
9               hearing to the State agency charged with the admin-  
10               istration of the State law, finds that there is a fail-  
11               ure to comply substantially with the requirements of  
12               paragraph (1), the Secretary of Labor shall notify  
13               such State agency that further payments will not be  
14               made to the State until the Secretary of Labor is  
15               satisfied that there is no longer any such failure.  
16               Until the Secretary of Labor is so satisfied, such  
17               Secretary shall make no future certification to the  
18               Secretary of the Treasury with respect to the  
19               State.”.

20               (c) UNEMPLOYMENT COMPENSATION INTEGRITY  
21               DATA HUB.—

22               (1) IN GENERAL.—Section 303(a) of the Social  
23               Security Act (42 U.S.C. 503(a)), as amended by  
24               subsection (a), is amended by adding at the end the  
25               following new paragraph:

1                 “(14) The State agency charged with adminis-  
2                 tration of the State law shall use the system des-  
3                 gnated by the Secretary of Labor for cross-match-  
4                 ing claimants of unemployment compensation under  
5                 State law against any databases in the system to  
6                 prevent and detect fraud and improper payments.”.

7                 (2) EFFECTIVE DATE.—The amendment made  
8                 by paragraph (1) shall apply to weeks of unemploy-  
9                 ment beginning on or after the earlier of—

10                 (A) the date the State changes its statutes,  
11                 regulations, or policies in order to comply with  
12                 such amendment; or

13                 (B) October 1, 2024.

14                 (d) USE OF NATIONAL DIRECTORY OF NEW HIRES  
15                 IN ADMINISTRATION OF UNEMPLOYMENT COMPENSATION  
16                 PROGRAMS AND PENALTIES ON NONCOMPLYING EMPLOY-  
17                 ERS.—

18                 (1) IN GENERAL.—Section 303 of the Social  
19                 Security Act (42 U.S.C. 503), as amended by sub-  
20                 section (b), is amended by adding at the end the fol-  
21                 lowing new subsection:

22                 “(o) USE OF NATIONAL DIRECTORY OF NEW  
23                 HIRES.—

1                 “(1) IN GENERAL.—Not later than October 1,  
2                 2024, the State agency charged with administration  
3                 of the State law shall—

4                         “(A) compare information in the National  
5                 Directory of New Hires established under sec-  
6                 tion 453(i) against information about individ-  
7                 uals claiming unemployment compensation to  
8                 identify any such individuals who may have be-  
9                 come employed, in accordance with any regula-  
10                 tions or guidance that the Secretary of Health  
11                 and Human Services may issue and consistent  
12                 with the computer matching provisions of the  
13                 Privacy Act of 1974;

14                 “(B) take timely action to verify whether  
15                 the individuals identified pursuant to subpara-  
16                 graph (A) are employed; and

17                 “(C) upon verification pursuant to sub-  
18                 paragraph (B), take appropriate action to sus-  
19                 pend or modify unemployment compensation  
20                 payments, and to initiate recovery of any im-  
21                 proper unemployment compensation payments  
22                 that have been made.

23                 “(2) ENFORCEMENT.—Whenever the Secretary  
24                 of Labor, after reasonable notice and opportunity for  
25                 hearing to the State agency charged with the admin-

1           istration of the State law, finds that there is a fail-  
2       ure to comply substantially with the requirements of  
3       paragraph (1), the Secretary of Labor shall notify  
4       such State agency that further payments will not be  
5       made to the State until the Secretary of Labor is  
6       satisfied that there is no longer any such failure.  
7       Until the Secretary of Labor is so satisfied, such  
8       Secretary shall make no future certification to the  
9       Secretary of the Treasury with respect to the  
10      State.”.

11           (2) PENALTIES.—

12           (A) IN GENERAL.—Section 453A(d) of the  
13       Social Security Act (42 U.S.C. 653a(d)), in the  
14       matter preceding paragraph (1), is amended by  
15       striking “have the option to set a State civil  
16       money penalty which shall not exceed” and in-  
17       serting “set a State civil money penalty which  
18       shall be not less than”.

19           (B) EFFECTIVE DATE.—The amendment  
20       made by subparagraph (A) shall apply to pen-  
21       alties assessed on or after October 1, 2024.

22           (e) STATE PERFORMANCE.—

23           (1) IN GENERAL.—Section 303 of the Social  
24       Security Act (42 U.S.C. 503), as amended by sub-

1       sections (b) and (d), is amended by adding at the  
2       end the following new subsection:

3       **“(p) STATE PERFORMANCE.—**

4       “**(1) IN GENERAL.**—For purposes of assisting  
5       States in meeting the requirements of this title, title  
6       IX, title XII, or chapter 23 of the Internal Revenue  
7       Code of 1986 (commonly referred to as ‘the Federal  
8       Unemployment Tax Act’), the Secretary of Labor  
9       may—

10           “(A) consistent with subsection (a)(1), es-  
11       tablish measures of State performance, includ-  
12       ing criteria for acceptable levels of performance,  
13       performance goals, and performance measure-  
14       ment programs;

15           “(B) consistent with subsection (a)(6), re-  
16       quire States to provide to the Secretary of  
17       Labor data or other relevant information from  
18       time to time concerning the operations of the  
19       State or State performance, including the meas-  
20       ures, criteria, goals, or programs established  
21       under paragraph (1);

22           “(C) require States with sustained failure  
23       to meet acceptable levels of performance or with  
24       performance that is substantially below accept-  
25       able standards, as determined based on the

1 measures, criteria, goals, or programs estab-  
2 lished under subparagraph (A), to implement  
3 specific corrective actions and use specified  
4 amounts of the administrative grants under this  
5 title provided to such States to improve per-  
6 formance; and

7 “(D) based on the data and other informa-  
8 tion provided under subparagraph (B)—

9 “(i) to the extent the Secretary of  
10 Labor determines funds are available after  
11 providing grants to States under this title  
12 for the administration of State laws, recog-  
13 nize and make awards to States for per-  
14 formance improvement, or performance ex-  
15 ceeding the criteria or meeting the goals  
16 established under subparagraph (A); or

17 “(ii) to the extent the Secretary of  
18 Labor determines funds are available after  
19 providing grants to States under this title  
20 for the administration of State laws, pro-  
21 vide incentive funds to high-performing  
22 States based on the measures, criteria,  
23 goals, or programs established under sub-  
24 paragraph (A).

1                 “(2) ENFORCEMENT.—Whenever the Secretary  
2         of Labor, after reasonable notice and opportunity for  
3         hearing to the State agency charged with the admin-  
4         istration of the State law, finds that there is a fail-  
5         ure to comply substantially with the requirements of  
6         paragraph (1), the Secretary of Labor shall notify  
7         such State agency that further payments will not be  
8         made to the State until the Secretary of Labor is  
9         satisfied that there is no longer any such failure.  
10         Until the Secretary of Labor is so satisfied, such  
11         Secretary shall make no future certification to the  
12         Secretary of the Treasury with respect to the  
13         State.”.

14                 (2) EFFECTIVE DATE.—The amendments made  
15         by this subsection shall take effect on the date of en-  
16         actment of this Act.

17                 (f) FUNDING.—Notwithstanding any other provision  
18         of law, out of any payments of compensation from the un-  
19         employment fund of the State that were made under the  
20         provisions of subtitle A of title II of division A of the  
21         CARES Act and are determined to have been made in  
22         error and are subsequently recovered by the State, the  
23         State may, immediately following receipt of such recovered  
24         amount—

1                   (1) deposit 50 percent of such amount in a  
2                   fund from which moneys may be withdrawn to carry  
3                   out the provisions of, and the amendments made by,  
4                   this section, including any regional or multi-State ef-  
5                   forts; and

6                   (2) pay 50 percent of such amount to the Sec-  
7                   retary of the Treasury to the credit of the account  
8                   of the State in the Unemployment Trust Fund.

9                   (g) PERMISSIBLE USE OF CARES ACT FUNDING.—  
10                  Section 2118 of the CARES Act (15 U.S.C. 9034) is  
11                  amended by adding at the end the following new sub-  
12                  section:

13                  “(d) PERMISSIBLE USE OF GRANT FUNDS.—A grant  
14                  to a State or territory awarded under subsection (b)(3)  
15                  may be used for purposes of carrying out the provisions  
16                  of, and the amendments made by, subsections (a) through  
17                  (e) of section 2 of the Unemployment Insurance Systems  
18                  Modernization Act of 2021.”.

